

6117. (Supplement to Notices of Judgment 1455, 4032, 4801). Alleged adulteration and misbranding of Coca Cola. U. S. * * * v. 40 Barrels and 20 Kegs Coca Cola. Default decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 966. S. No. 352.)

On July 3, 1916, the Supreme Court of the United States, in accordance with its decision theretofore rendered, reversing the judgment of the United States Circuit Court of Appeals for the sixth circuit, in a case involving the question of adulteration and misbranding within the meaning of the Food and Drugs Act of 40 barrels and 20 kegs of Coca Cola, issued its mandate to the District Court of the United States for the Eastern District of Tennessee, commanding that such proceedings be had in said case, in conformity with the opinion and judgment of said Supreme Court, as according to right and justice ought to be had, the writ of error that had been brought in the case notwithstanding.

On November 12, 1917, the case coming on to be heard before the said district court of the United States for the Eastern District of Tennessee, the following decree was entered by the Court (Sanford, *United States Judge*) :

This proceeding coming on to be heard, and it appearing that the claimant, the Coca Cola Company, without admitting the charges of either misbranding or adulteration, but expressly denying same, but stating that it has made certain modifications in the process of its manufacture, and on account of which a decision either way of the question of fact now involved would not be conclusive in any future proceedings against its present product, has, in order to dispose of this libel without the necessity of another trial, and for the sole purpose of disposing of this cause, withdrawn its claim and all other pleadings therein, and it appearing that the United States and said claimant, by their Attorneys of Record, have consented to the judgment herein;

And it appearing that monition issued in this case has been heretofore returned, the usual proclamation made, all legal requirements complied with, and that the default of all persons has been duly entered after the withdrawal by claimant of this claim and defenses as aforesaid:

Now THEREFORE, the premises considered, it is, on motion of the United States, ORDERED, SENTENCED AND ADJUDGED by the court, now here, and his Honor, the District Judge, by virtue of the power and authority in him vested, doth hereby order, sentence and adjudge that the goods, wares, and merchandise seized in this proceeding be, and the same are hereby forfeited to the United States, and that the said The Coca Cola Company pay all costs of this proceeding;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the judgment of forfeiture shall not be binding upon the said the Coca Cola Company or its product except as to this cause and the particular goods seized herein, nor binding upon the claimant or its product as it shall relate to any other cause or proceeding of any kind or character.

AND IT IS FURTHER ORDERED that the said goods, wares or merchandise seized herein, to wit, the forty barrels and twenty kegs of Coca Cola shall be released to the claimant upon said claimant paying the costs above adjudged and giving sufficient bond, conditioned that the product shall not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act, or the laws of any State, Territory, District, or Insular possession of the United States.

R. A. PEARSON, *Acting Secretary of Agriculture.*